

**CHAPTER TEN**  
**LABOR STANDARDS**  
**MONITORING AND COMPLIANCE REVIEW**

**General Instructions to Monitoring Staff:**

This review should be conducted “on-site” at the local program office and work sites through review of grantee policies and procedures, examination of general files, inspection of actual contract files selected at random by the Reviewer, and interviews of key staff and (as appropriate) contractors and their employees. The issues and concerns identified in this on-site review of the grantee’s labor standards activities should be noted on the Labor Standards – Summary Page for Monitoring and Compliance Review found at the end of this chapter.

**A. GENERAL INFORMATION**

**Date(s) of On-Site Review:** \_\_\_\_\_

Grantee/Project Name: \_\_\_\_\_

Program Year: \_\_\_\_\_

Grant #: \_\_\_\_\_

Grant Term: \_\_\_\_\_

**Local Staff (and Contractors) Interviewed:<sup>1</sup>**

Name:	Title:	Location:	Date of Interview:	Telephone #/e-mail:
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**B. ISSUES FROM GENERAL PROJECT INFORMATION SUMMARY:** *Note: Please refer to Section D of the General Project Information Summary (Chapter One). Any issues regarding labor standards that emerged from the completion of Chapter One should be noted below and addressed through interviews with the local project staff and/or on-site file reviews. These issues can be addressed at the beginning of the monitoring visit, or at whatever point in the monitoring visit the Reviewer feels is appropriate.*

Issues for On-Site Follow-Up	Related Questions/Citations	Grantee Response and/or Resolution
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

<sup>1</sup> Note: The names of any employees of the contractors interviewed should be kept in a separate file to maintain confidentiality.

## **Additional Instructions to Monitoring Staff:**

### **LABOR STANDARDS**

The labor standards and requirements applicable to the Maryland CDBG program are those that are applicable to other Federally assisted programs. These standards and requirements are set forth in the three statutes described below:

**Davis-Bacon Act** – requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the U.S. Department of Labor and are issued in the form of Federal wage decisions for each classification of work. The law applies to all CDBG construction, alteration, or repair contracts over \$2,000, except for the rehabilitation of residential structures designed for less than eight units when completed. The Act does not apply in instances where the grantee opts to use its own “force account” labor to perform the contract (i.e. DPW performing street repairs, etc.)

**Copeland “Anti-Kickback” Act** – requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. Contractors and sub-contractors are required to maintain payroll records and submit appropriate weekly compliance statements and payroll records to the grantee. The Act applies to all contracts covered by Davis-Bacon.

**Contract Work Hours and Safety Act** – Applies to all construction contracts performed under the CDBG program except for the rehabilitation of residential structures designed for less than eight units when completed. Requires that workers receive overtime compensation at a rate of one and one half times their regular hourly wage after they have worked in excess of forty hours in one week. In the event of violations, the contractor or sub-contractor shall be liable to any affected employee for unpaid wages.

### **ON-SITE REVIEW**

On-site labor standards monitoring and compliance should be conducted with the grantee’s labor standards enforcement officer. The review should include an examination of the grantee’s labor standards files related to specific construction projects undertaken. If there are numerous construction projects, this review should be on a sample basis. This review will provide information regarding the grantee’s overall labor standards and contract monitoring administration as well as provide data on individual contractor compliance. The Reviewer should examine the grantee’s procedures to monitor contractors on an ongoing basis, investigate violations, and take appropriate follow-up action where violations are found.

DHCD monitoring staff must take into account the timeliness and frequency with which certain documents are completed and submitted. For example, was the most recent wage determination included in bidding documents? Was a certified payroll submitted to the grantee within seven days of the completion of the work week? DHCD staff should also check to ensure that appropriate U.S. Department of Labor signs are posted on the job site.

The Reviewer's on-site activities will typically include the following:

- Review source documentation in the grantee labor standards files.
- Review any written labor standards procedures developed by the grantee.
- Review bid documents and wage determination dates.
- Review contractor and sub-contractor certifications.
- Review minutes of pre-construction conferences.
- Review evidence of contractor eligibility.
- Ensure weekly payrolls are current and on file.
- Look for evidence the grantee has interviewed workers of affected contractors and sub-contractors.
- Review site inspection reports to ensure they are ongoing, complete, and do not reveal evidence of non-compliance with labor requirements.
- Spot check job site for evidence of Department of Labor posters.

DHCD monitoring staff must review grantee compliance with the above labor provisions at several stages of project implementation (e.g. bidding, contract award, contract monitoring, etc.).

All labor standards issues identified during the on-site review of the grantee's project should be noted on the Labor Standards –Summary Page for Monitoring and Compliance Review found at the end of this chapter of the Handbook.

By its very nature, compliance with labor standards provisions is an integral part of the Record-keeping, Procurement, Fair Housing and Equal Opportunity (FHEO) monitoring and compliance reviews. Accordingly, the findings from this portion of the monitoring review should inform these other review components, and vice versa.

### C. LABOR STANDARDS REQUIREMENTS

<p style="text-align: center;"><b>LABOR STANDARDS</b></p> <p>29 CFR 3 (last revised 1/4/64); 29 CFR 5 (last revised 4/29/83, 5/3/96); 24 CFR 570.487(d)</p>	<p style="text-align: center;"><b>General Program Practice Consistent with Policies &amp; Regulations</b></p>	<p style="text-align: center;"><b>Sample Contract # _____</b></p>	<p style="text-align: center;"><b>Comments and Description of Documentation or Issues:</b></p>
<p><b>UNDERSTANDING OF STANDARDS/THRESHOLDS</b></p>			
<p><i><b>Citation: 40 U. S. C. 276a-276a-7: Requires the designation of a contract administrator prior to construction, to ensure compliance with applicable standards and act as liaison with HUD and its designees.</b></i></p> <p>1. <b>Designated Officer:</b> Does the grantee have a designated Labor Standards Compliance Officer?</p> <p>Name: _____</p>	<p style="text-align: center;">Yes    No</p>		
<p>2. <b>Familiarity with Standards:</b> Is the Labor Standards Compliance Officer familiar with labor standards requirements and procedures?</p>	<p style="text-align: center;">Yes    No</p>		
<p>3. <b>Communication with DHCD:</b> Is the grantee familiar with the DHCD Program Labor Standards Officer?</p>	<p style="text-align: center;">Yes    No</p>		
<p><i><b>Citation: 24 CFR 85: Requires the grantee to establish a construction management system which meets Federal standards for administration of grants:</b></i></p> <p>4. <b>Documentation of Compliance:</b> Does the grantee maintain a labor compliance file for each construction project?</p>	<p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p>	

<p style="text-align: center;"><b>LABOR STANDARDS</b></p> <p>29 CFR 3 (last revised 1/4/64); 29 CFR 5 (last revised 4/29/83, 5/3/96); 24 CFR 570.487(d)</p>	<p style="text-align: center;"><b>General Program Practice Consistent with Policies &amp; Regulations</b></p>	<p style="text-align: center;"><b>Sample Contract # _____</b></p>	<p style="text-align: center;"><b>Comments and Description of Documentation or Issues:</b></p>
<p>5. <b>Use of Contractors:</b> Did the grantee contract with a general contractor to undertake the construction project?</p>	<p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p>	
<p>6. <b>Use of “Force Account” Labor:</b> Does the grantee use its own “force account” labor to undertake all or certain components of the construction project? <i>(Note: although Davis-Bacon prevailing wages do not apply, record-keeping still encouraged).</i></p>	<p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p>	
<p>7. <b>Value of Contract:</b> Is the construction contract (or subcontract) value greater than \$2,000 (and, if it involves residential rehabilitation, does the structure have 8 or more units)?</p>	<p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p>	



<p style="text-align: center;"><b>LABOR STANDARDS</b></p> <p>29 CFR 3 (last revised 1/4/64); 29 CFR 5 (last revised 4/29/83, 5/3/96); 24 CFR 570.487(d)</p>	<p style="text-align: center;"><b>General Program Practice Consistent with Policies &amp; Regulations</b></p>	<p style="text-align: center;"><b>Sample Contract # _____</b></p>	<p style="text-align: center;"><b>Comments and Description of Documentation or Issues:</b></p>
<p><b>Citation: 29 CFR 5.5(a): Grantee must ensure that all bid documents, contracts and sub-contracts contain Federal labor standards provisions and the applicable Davis-Bacon wage decision.</b></p> <p>9. <b>Provisions Present in Contracts?:</b> Are the following provisions present in all appropriate contracts?</p> <p>9.1 Bonding? (see section on bonding and procurement)</p> <p>9.2 Remedies?</p> <p>9.3 Termination?</p> <p>9.4 E.O. 11246? (see Chapter Nine – FHEO )</p> <p>9.5 Section 3 hiring?</p> <p>9.6 Anti-kickback?</p> <p>9.7 Davis-Bacon?</p> <p>9.8 Work Hours and Safety?</p> <p>9.9 Reporting?</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	
<p><b>Citation: 29 CFR 5.6: Grantee must conduct on-site inspections including interviews with laborers and mechanics employed on the construction project and ensure that wage decisions and DOL notices are posted at job site.</b></p> <p>10. <b>Compliance Review Procedures:</b> Does the grantee have standard procedures for conducting compliance reviews?</p>	<p>Yes No</p>	<p>Yes No</p>	
<p>11. <b>Regular Field Inspections:</b> Does the grantee make field inspections of construction activities on a regular basis?</p>	<p>Yes No</p>	<p>Yes No</p>	

<p style="text-align: center;"><b>LABOR STANDARDS</b></p> <p>29 CFR 3 (last revised 1/4/64); 29 CFR 5 (last revised 4/29/83, 5/3/96); 24 CFR 570.487(d)</p>	<p style="text-align: center;"><b>General Program Practice Consistent with Policies &amp; Regulations</b></p>	<p style="text-align: center;"><b>Sample Contract # _____</b></p>	<p style="text-align: center;"><b>Comments and Description of Documentation or Issues:</b></p>
<p>12. <b>Restitution Process:</b> Does the grantee have a process to ensure contractor restitution when there is non-compliance?</p>	<p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p>	
<p><i><b>Citation: 29 CFR 3.4 and 24 CFR 5.5(a)(3)(ii)(A): Grantee is required to ensure that weekly payrolls are submitted and reviewed.</b></i></p> <p>13. <b>Weekly Payrolls Submitted?:</b> Are signed contractor/subcontractor payrolls submitted weekly, no later than 7 days following the completion of the work week?</p>	<p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p>	
<p>14. <b>Inspection of Payrolls:</b> Do individual payrolls provide complete data that confirm:</p> <p>14.1 Payrolls numbered?</p> <p>14.2 Payrolls signed by employer's authorized representative?</p> <p>14.3 Apprentice/trainee registration records?</p> <p>14.4 Record of additional classifications?</p> <p>14.5 Each worker paid full weekly wages without direct or indirect rebates?</p> <p>14.6 Only permissible deductions have been taken from worker wages?</p> <p>14.7 Where appropriate, overtime compensation paid?</p>	<p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p>	<p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p> <p style="text-align: center;">Yes    No</p>	



<p style="text-align: center;"><b>LABOR STANDARDS</b></p> <p>29 CFR 3 (last revised 1/4/64); 29 CFR 5 (last revised 4/29/83, 5/3/96); 24 CFR 570.487(d)</p>	<p style="text-align: center;"><b>General Program Practice Consistent with Policies &amp; Regulations</b></p>	<p style="text-align: center;"><b>Sample Contract # _____</b></p>	<p style="text-align: center;"><b>Comments and Description of Documentation or Issues:</b></p>
<p><b>15. Grantee On-site Reviews:</b> Did the grantee make on-site compliance reviews during construction for the following:</p> <p>15.1 Posted wage rate determinations and Department of Labor posters?</p> <p>15.2 Check contractor/subcontractor payroll files?</p> <p>15.3 Conduct adequate number of worker interviews to verify wages paid (HUD definition of adequate is 5% of workers over the life of the contract)? <i>[Note: per 29 CFR 5.6(a)(5) must keep identity of interviewed workers confidential]</i></p> <p>15.4 Review use of apprentices, trainees, and helpers?</p> <p>15.5 Verify overtime payment and procedures?</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	
<p><b>16. Inspection of Violations:</b> If violations were reported, did the grantee:</p> <p>16.1 Investigate in a timely manner?</p> <p>16.2 Provide adequate documentation to support findings?</p> <p>16.3 Notify the Maryland CDBG Program of appropriate violations?</p> <p>16.4 Enforce required sanctions on the contractor?</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	

## LABOR STANDARDS

### SUMMARY PAGE FOR MONITORING AND COMPLIANCE REVIEW

**Instructions to Monitoring Staff:**

In the space below, please note any issues arising from the review. For any concerns of findings identified during the review, provide amplification as necessary, and specify corrective actions that the grantee must take to resolve the issue(s). Also describe the nature of any technical assistance provided during the review. List any follow-up action for the DHCD staff and/or the grantee, and the dates by which such actions must be taken.

**Issues/Findings/Concerns (and Relevant Citations):**

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**Necessary Actions Steps and/or Resolution (and Deadlines):**

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Based on the evidence reviewed, has the grantee complied with applicable Labor Standards requirements? Yes      No

Maryland DHCD Staff Conducting Review: \_\_\_\_\_

Date Review Completed: \_\_\_\_\_